



Department of Justice

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JUSTICE DEPARTMENT APPROVES THE CREATION OF ENERGY EXCHANGE FOR TRADING SHORT-TERM ELECTRIC POWER

Washington, D.C. -- The Department of Justice's Antitrust Division announced that it has approved the creation of a computerized trading system that would allow real-time trading of electric power on a next-hour basis.

The system, known as the Next-Hour Energy Exchange, was proposed by the Southwest Power Pool Inc., a consortium of electric power generators, marketers, and governmental entities.

While much electric power is sold at wholesale pursuant to long-term contracts, there has been a trend toward increased sales of electric power on a shorter-term basis -- from one hour to several days. At the present time, firms interested in buying or selling electric power on a short-term basis must contact each other by telephone or other means that do not allow broad canvassing of potential buyers and sellers. This is not a very efficient means of buying or selling next-hour energy. To rectify this market deficiency, Southwest Power Pool Inc., proposes to create a computer system that would enable its members to electronically post buy and sell orders for next-hour energy. The computerized trading system would be known as the Next-Hour Energy Exchange and the buy and sell quotes posted on it would be individually set by the potential traders, subject to the maximum rates established in applicable tariffs on file with the Federal Energy Regulatory Commission. Southwest Power Pool and Next Hour Energy Exchange members will remain free to buy or sell energy outside the proposed system.

The Department's position was stated in a business review letter to counsel from Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division.

She noted that "making real-time quotes available to those in a position to buy or sell the posted next-hour energy would not be likely to foster price collusion or otherwise impede competition. Moreover, the fact that members of the Next-Hour Energy Exchange would remain free to trade outside of the system...lessens the likelihood that the Next-Hour Energy Exchange will have any adverse competitive effect."

The Department also observed that to the extent that Southwest Power Pool's proposal created greater incentives for increased efficiency it could foster price rivalry to the benefit of consumers.

Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Suite 215, Liberty Place, 325 7th Street, N.W., Department of Justice, Washington, D.C. 20004. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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